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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,059	04/13/2001	Mark Gray	55218-0507	5951

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SAN JOSE, CA 95110-1089

EXAMINER

REFAI, RAMSEY

ART UNIT	PAPER NUMBER
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3627

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02/20/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/835,059	Applicant(s) GRAY, MARK	
	Examiner Ramsey Refai	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 11, 16, 20-29, 31-40, 42, 43, 46-51 and 54-68 is/are pending in the application.
- 4a) Of the above claim(s) 6-8, 11-16, 27-29, 38-40, 42, 43, 46-50, 54-57 and 63-68 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 20-26, 31-37 and 58-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

In view of the Appeal Brief filed on November 4, 2008, PROSECUTION IS HEREBY REOPENED. New grounds of rejections set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627

Claims 6-8, 11-16, 27-29, 38-40, 42, 43, 46-50, 54-57, and 63-68 remain withdrawn.
Claims 1-5, 20-26, 31-37 and 58-62 remain pending.

Response to Arguments

1. In the remarks, the Applicant argues in substance that claims 60-62 are at least implicitly or inherently fully supported by the applicant's specification.

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In response, the Examiner respectfully disagrees. The applicant's specification fails to teach the limitations of claims 60-62. More specifically, the applicant specification fails to define the terms powered state and unpowered state as shown in these claims. The specification describes an unpowered state to include devices which are inactive and is not limited to a device which is "*not able to receive one or more packets over the network*" as shown in claims 60-62. The specification also does not require a device "to receive one or more packets over the network" to be a powered device (see at least page 22, page 10). These newly presented claims appear to be negative limitations used to overcome the Schenkel reference, more specifically, to differentiate Schenkel's idled device from an unpowered device. The rejection is maintained.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 60-62 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. No support for the newly presented claims has been found in the Applicant's specification. Claim 60 recites "when the power state of the first network device is the unpowered state, the first network device is not able to receive one or more packets over the network; and when the power state of the first network device is the powered state, the first

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network device is able to receive one or more packets over the network" which lacks proper support in the specification. Claims 61-62 contain similar features as claim 60.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5, 20-26, 31-37 and 58-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schenkel et al (U.S. Patent No. 6,728,670) in view of Kracht (U.S. Patent No. 6,516,345) and in further view Atkinson et al (US 6,760,850).

6. As per claim 1, Schenkel et al teach a method for determining one or more logical interconnections among a plurality of network devices that are interconnected in a network in an indefinite relationship, wherein a power state is associated with a first network device, the method comprising the computer-implemented steps of:

changing the power state of the first network device from either (a) an *inactive* state to a *active* state or (b) from the powered state to the unpowered state; identifying whether an alteration occurs at a second network device in response to changing the power state of the first network device (**column 2, lines 20-40; shows a signal sent from a source device to a destination device, idle device is stimulated to determine connections; Figure2, and column 3, lines 18-32**).

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Schenkel et al fail to teach creating and storing first information representing a logical connection of the first network device to the second network device. However, Kracht teaches creating and storing information representing a logical connection of the first network device to the second network device (**column 3, line 59 –column 4, line 10**). It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Schenkel et al and Kracht because Kracht's use of creating and storing information representing a logical connection of devices in Schenkel et al's system would have created a way to maintain information regarding neighboring devices on a database.

Furthermore, Schenkel et al fail to explicitly teach changing the power state from an *unpowered to a powered state*. However, Atkinson et al teach the use of a power controller to power up a device from an unpowered state to a powered state (**see at least column 5, lines 2-21, abstract, column 3, lines 56-67, column 4, lines 15-27**). It would have been obvious to one of ordinary skill in the art to combine Atkinson et al with Schenkel et al and Kracht because doing so would allow for a way to determine the logical connections of a device that is unpowered.

7. As per claim 2, Schenkel et al fail to teach retrieving second information from a database, wherein the second information represents one or more logical connections of the first network device to the second network device; comparing the second information from the database with the first information; and generating an error if the second information indicates that a logical connection exists between the first and second network devices but the first information does not indicate that the logical connection exists between the first and second network devices. However, Kracht teaches a discovery mechanism that has a data file, comparing the returned sysObjectID variable to the entries within the data file, and eliminating

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information representing a plurality of devices that is incorrectly identified as a known device **(see at least column 4, lines 10-21 and column 7, line 61 – column 8, line 15)**. It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Schenkel et al-Kracht-Atkinson et al because Kracht's use of comparing device information in Schenkel et al's system would enhance updating device information stored in a database or data file.

8. As per claim 3, Schenkel et al teach the second network device is a terminal server **(see at least column 2, line 65 – column 3, line 7)** and wherein the step of identifying whether the alteration occurs at the terminal server further comprises: determining whether a state of a port of the terminal server is dead to active in response to changing the power state of the first network device **(see at least column 30 –37, column 6, lines 30-35, column 6, lines 55-56 and column 27, lines 55-62)**.

9. As per claim 4, Schenkel et al-Kracht-Atkinson et al teach the use of a switch and determining whether a trap on a port of the switch is raised **(Atkinson et al: see at least abstract, column 7, line 35-column 8, line 11, column 9, line 55-column 10, line 13)**.

10. As per claim 5, Schenkel et al teach receiving, in response to changing the power state of the first network device, additional information from the first network device; and recording the additional information **(Figure 2, column 3, lines 19-32, and column 4, line 1-12)**.

11. As per claims 20-22, 31-33, and 35, these claims contain similar limitations as claims 1-3 and 5 above and therefore are rejected under the same rationale.

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12. Claims 23 and 34 contain similar limitations as claim 4 above and therefore is rejected under the same rationale.

13. As per claims 25 and 58, Schenkel et al-Kracht-Atkinson et al teach changing the power state of the first network device is in response to a signal from a third network device (**Atkinson et al: power controller; see at least abstract, fig 3**).

14. As per claims 26 and 59, Schenkel et al-Kracht-Atkinson teach the first network device is connected to a power controller and wherein the signal from the third network device is sent to the power controller that changes the power state of the first network device (**Atkinson et al: see at least abstract, fig 3**).

15. As per claims 36–37, these claims contain similar limitations as claims 25-26 above, therefore rejected under the same rationale.

16. As per claims 60-62, Schenkel et al-Kracht-Atkinson teach when the power state of the first network device is the unpowered state, the first network device is not able to receive one or more packets over the network; and when the power state of the first network device is the powered state, the first network device is able to receive one or more packets over the network (**See Atkinson et al: see at least column 5, lines 2-21, abstract, column 3, lines 56-67, column 4, lines 15-27**).

Conclusion

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Examiner's Note: The Examiner has cited specific citations in the reference(s) as applied to the claim(s) above for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the Applicant, in preparing their response, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Refai whose telephone number is (571) 272-3975. The examiner can normally be reached on M-F 8:30 - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ramsey Refai
February 05, 2009
/R. R./
Examiner, Art Unit 3627